

EXHIBIT J
to
Declaration of Stephen Richards

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AmeriMark Automotive AG, and Third-Party Defendants
Shaen Bernhardt, Martin Fasser Heeg, Stefan Kammerlander,
and AmeriMark Group AG*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

CAPANA SWISS ADVISORS AG, a Swiss corporation; AMERIMARK AUTOMOTIVE AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation; NICHOLAS THAYNE MARKOSIAN, an individual; JOHN KIRKLAND, an individual; and VICKY SMALL, an individual,

Defendants.

PLAINTIFF AMERIMARK AUTOMOTIVE AG'S RESPONSES TO DEFENDANTS, COUNTER CLAIMANTS, AND THIRD-PARTY PLAINTIFFS' FOURTH SET OF DISCOVERY REQUESTS

Case No. 2:23-cv-00467

Judge: Hon. Ted Stewart

Magistrate Judge: Hon. Cecilia M. Romero

INTERROGATORY NO. 9:

Describe in detail any capital increase in Philomaxcap AG involving shares of AmeriMark Group.

RESPONSE TO INTERROGATORY NO. 9:

AmeriMark Automotive's limited understanding of this transaction is that in February of 2024, Philomaxcap AG issued 15,600,000 shares with a par value of EUR 1.00 each in exchange for 13,000,000 shares of AmeriMark Group. Amerimark Automotive believes that this transaction is outlined in more detail in the public filings made by Philomaxcap and the published fairness opinion produced by its auditors.

INTERROGATORY NO. 10:

Describe in detail any planned transactions, including the consideration for such transactions, the pre-transaction corporate structure, and the planned post-transaction corporate structure, between or among the following: H2E Americas, Philomaxcap AG, Capana Swiss Advisors.

RESPONSE TO INTERROGATORY NO. 10:

AmeriMark Automotive objects to this Interrogatory on the ground that it is overly broad and unduly burdensome, specifically as it relates to the phrase "all planned transaction." AmeriMark Automotive further objects to this Interrogatory on the grounds that neither "H2E Americas" nor any "planned transactions" are related to any party's claim or defense or proportional to the needs of the case.

Subject to and without waiving the foregoing objection, AmeriMark Automotive responds as follows: AmeriMark Automotive is not privy to any particular plans or material non-public information regarding future transactions as listed in this Interrogatory.

INTERROGATORY NO. 11:

Describe in detail each press release issued by or with respect to AmeriMark Automotive or AmeriMark Group, including who drafted each press release, who reviewed each press

release, who facilitated the publication of each press release, and any diligence performed into the contents or truthfulness of each press release.

RESPONSE TO INTERROGATORY NO. 11:

AmeriMark Automotive objects to this Interrogatory on the ground that it is overly broad and unduly burdensome, specifically as it relates to the phrases “each press release” and “any diligence.”

Subject to and without waiving the foregoing objection, AmeriMark Automotive responds as follows: The following press releases, for some of which Mr. Markosian and Mr. Kirkland personally drafted quotes and information (their involvement with which they have been lying for years), were published containing the following disclaimer:

The Company cautions investors that any forward-looking statements or projections provided by the Company, including those in this announcement, are subject to risks and uncertainties that may cause actual results to differ materially from those projected. Any references to past performance should not be taken as an indication of future performance. The document is for information purposes only and is intended for the use of the recipient. This press release does not constitute an offer to buy or a solicitation of an offer to sell shares of AmeriMark Group AG, which does not guarantee completeness and excludes all liability for losses arising from the use of this information.

- Press release issued July 9, 2020, was originally drafted by Miron Leshem in consultation with Rymark COO John Kirkland (*see* PL_0000012091);
- Press release issued May 5, 2021, was originally drafted by Frank Hüser (*see* PL_0000012005);
- Press release issued May 11, 2021, was originally drafted by Miron Leshem (*see* PL_0000011898);
- Press release issued May 17, 2021, was originally drafted by Frank Hüser and/or Nicolai Colshorn (*see* PL_0000012619);
- Press release issued May 25, 2021, was originally drafted by Nicolai Colshorn;

- Press release issued June 1, 2021, was originally drafted by Frank Hüser (see PL_0000012471); and
- Press release issued June 8, 2021, was originally drafted by Nicolai Colshorn.

INTERROGATORY NO. 12:

Describe in detail the business of AmeriMark Deutschland, including its officers, directors, and employees; its capital; its corporate organization; its parents, subsidiaries, and sister corporations; and its business operations.

RESPONSE TO INTERROGATORY NO. 12:

Mr. Hüser's efforts at AmeriMark between January 2020 and January 2022, when he was an officer of AmeriMark Group. After joining AmeriMark Group he immediately began discussions to extend the "Markosian Formula" into Germany (an effort that the Rymark team was explicitly informed about by Mr. Leshem in early 2020) by reaching out to potential partners including ALD AutoLeasing GmbH in Hamburg, Germany, an entity specializing in car leasing in the European marketplace with at least 150,000 leased units, 30 branches, and sales revenue of approximately EUR 500 million in 2020 ("ALD"), and with Santander Consumer Bank in Mönchengladbach, Germany, regarding automobile leasing and sales financing ("Santander").

In the earliest stages of his efforts, Mr. Hüser faced issues regarding the strict compliance and regulatory environment in Germany and the European Union where consumer finance regulation is far more complex and restrictive than in the United States or Switzerland. In particular, consumer finance protections regarding foreign entities (to Germany) and protection to consumers via restrictions on interest rates were issues to be addressed and replicating the Rymark structure with a captive finance company (e.g. APG Financial Inc.) would require special licensing which would be expensive and time consuming.

Based on feedback from Santander and ALD regarding the difficulty dealing with foreign entities regarding consumer credit, and to comply with payroll and social security requirements in Germany, Mr. Hüser began founding AmeriMark Deutschland GmbH ("AmeriMark Deutschland") in January-February 2020 and that formation was registered in the jurisdiction of

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Capana has paid AmeriMark Automotive's legal fees in this case.

Dated: January 27, 2025

PARSONS BEHLE & LATIMER

/s/ Erik A. Christiansen

Erik A. Christiansen
Hannah Ector

VENABLE LLP

John Worden (*Admitted Pro Hac Vice*)
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AG and AmeriMark Automotive AG, and
Third-Party Defendants Shaen Bernhardt,
Martin Fasser Heeg, Stefan Kammerlander,
and AmeriMark Group AG*

VERIFICATION

I, Martin Fasser Heeg, hereby attest as follows:

I currently the Director of AmeriMark Autmotive AG. I have read the foregoing Responses to Defendants, Counter Claimants, and Third-Party Plaintiffs' Fourth Set Interrogatories and Requests for Admission and state that the answers are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of January 2025, at Zurich, Switzerland.



Martin Fasser Heeg

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of January 2025, I served by electronic mail the foregoing **PLAINTIFF AMERIMARK AUTOMOTIVE'S RESPONSES TO DEFENDANTS, COUNTER CLAIMANTS, AND THIRD-PARTY PLAINTIFFS' FOURTH SET OF DISCOVERY REQUESTS** upon counsel of record listed below.

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/s/ Zoe Gallagher
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